R. ROY MCMURTRY SYMPOSIUM

ROLE OF THE ATTORNEY GENERAL OF ONTARIO

NOVEMBER 24, 2008 IN TORONTO, CANADA

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Office of the Assistant Deputy Attorney General
Legal Services Division
Ministry of the Attorney General of Ontario

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Role of the Attorney General of Ontario : R. Roy McMurtry Symposium

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Malliha Wilson

WELCOME

It is with great pleasure that I welcome all of you to the second lunch seminar in the Ministry of the Attorney General's (MAG) special series of biannual seminars featuring the distinguished and Honourable Mr. R. Roy McMurtry.

Today we are pleased to have former Chief Justice McMurtry and the Honourable Mr. Justice Robert Sharpe.

Mr. McMurtry will speak on the role of the Attorney General and Justice Sharpe will speak on the role of the profession in Pakistan's crisis over judicial independence.

The purpose of this seminar series is to provide an opportunity for MAG counsel to benefit from Mr. McMurtry's unparalleled knowledge of, and experience in, the justice system as Solicitor General of Ontario, Attorney General of Ontario, and as Chief Justice of Ontario.

Mr. McMurtry represents the very best in the tradition of public service. In fact, MAG is fortunate to have Mr. McMurtry as our Senior General Counsel, a role in which he provides strategic insights and commentary on Ministry litigation and policy initiatives.

After practicing law, Mr. McMurtry was elected to the Ontario Legislature in 1975 and appointed to the Cabinet of Bill Davis as the Attorney General of Ontario and became one of the most trusted advisors of Premier Davis.

He held that position until 1985, and during that time, led the province through an era of remarkable reform. While Mr. McMurtry was in office, the Ontario Legislature passed more than fifty provincial statutes which improved the administration of justice in Ontario, including the *Family Law Reform Act*, established a bilingual court system and launched a province-wide network of community legal clinics focusing on issues such as housing and workers' compensation.

These reforms were a result of Mr. McMurtry's belief in equal access to justice and his relentless pursuit of that goal. For example, when he became Attorney General for Ontario in 1975, it soon became apparent to Mr. McMurtry that a bilingual court system in Ontario was long overdue. He was all the while guided by the belief that the duality of our country is one of the foundations of its existence, and should therefore be reflected in our judicial system.

In his effort to bring bilingualism to the legal system, Mr. McMurtry oversaw: the appointment of MAG's first French-language services coordinator, funding of the crucial *l'Association des juristes d'expression française de l'Ontario* and the passage of the *Courts of Justice Act* in 1984, which, thanks to his vision and leadership, states in s.125 that "the official languages of the courts of Ontario are English and French."

As Attorney General, he also established a firm basis for community law in Ontario. The entrenchment of the community legal clinic movement in this province is a testament to Mr. McMurtry's belief that legal aid, and, in particular, community law, is one of the most important mechanisms we have to make the equal rights dream a reality, and, furthermore, that it is a community's responsibility to ensure that none of its members are excluded from the rule of law.

And as I'm sure you're all aware, Mr. McMurtry was deeply involved in the patriation of the Constitution and was one of the architects of the *Charter of the Rights and Freedoms*.

The entrenchment of the *Charter of Rights* in our patriated constitution created a new era in the administration of justice in this country and has strengthened the profile of Canada internationally. Canada's *Charter* cases are routinely referred to in most of the Commonwealth and the world.

One such *Charter* case, of which Mr. McMurtry is rightfully proud, and one over which he presided as president of the panel in the Court of Appeal, is *Halpern v. Canada*.

As all of you know, the Ontario Court of Appeal in that case unanimously declared that the legal definition of marriage violated the *Charter*, and changed the wording in that definition from "one man and one woman" to "two persons".

As Mr. McMurtry noted, the case was "ultimately about the recognition and protection of human dignity and equality." For this, Mr. McMurtry and his fellow Court of Appeal panelists in the *Halpern* decision (Gilles and MacPherson, JJ.A.) were named as the Globe and Mail's Nation Builders of the Year in 2003.

Today, Mr. McMurtry continues his tradition of public service through his extensive involvement in a wide array of initiatives, such as:

- the Ontario Justice Education Network, which promotes understanding, education, and dialogue as a means of building a responsive and inclusive justice system;
- the LAWS program, a law and justice-themed high school program affiliated with the University of Toronto that targets students at two high schools near the U of T law school who face barriers to achieving their full potential and;
- the *Review of the Roots of Youth Violence,* which recently issued a probing report that examines the causes of youth violence and proposes several initiatives as a way forward.

We are also very fortunate to have Mr. Justice Robert Sharpe of the Ontario Court of Appeal with us today, who, like Mr. McMurtry, really needs no introduction.

Throughout his legal career, Justice Sharpe has distinguished himself as an academic, a writer and biographer, and, course, as a judge of the Court of Appeal for Ontario.

While a law professor at the University of Toronto, Justice Sharpe wrote on issues arising in the new *Charter* era, and, significantly, on the issue of commercial expression and the type of protections that the *Charter* should afford commercial speech. In prescient scholarly articles written before the Supreme Court of Canada issued its landmark decisions in *Irwin Toy* and *RJR MacDonald*, Justice Sharpe analyzed the nature of commercial expression, how it differed from other sorts of expression, such as political speech, and the legitimate limits that governments could place on it. In so doing, he framed a crucial discussion about the interaction of *Charter* protections, public goods and the proper role of government regulators. His interest and expertise in the *Charter* also led him to co-author a key text on the subject, called *The Charter of Rights and Freedoms*. He also wrote another seminal text called *Injunctions and Specific Performance* which I know our MAG lawyers frequently draw upon.

Justice Sharpe also worked alongside Chief Justice Brian Dickson, when he acted as Executive Legal Officer at the Supreme Court and co-authored with Kent Roach, a complete biography of Justice Dickson called *Brian Dickson: A Judge's Journey*, which offers rare insight into a man who brought the Supreme Court into the centre of Canadian political and cultural life – tackling abortion, hate speech, and individual privacy

In his decisions as a judge of the Ontario Court of Appeal, Justice Sharpe has consistently shown a principled and nuanced approach to issues of the rule of law, the *Charter* and the role of the courts in reviewing government decisions. He has addressed issues of government liability in seminal cases such as *Eliopoulos v. Ontario* and *Larcade v. Ontario*, both of which are widely quoted decisions dealing with the tortious liability of public officials. Justice Sharpe has also shown himself to be keenly aware of the issues of minority and Aboriginal rights, and the fundamental obligation of governments to address these issues. He has dealt with service provision to French-speaking minorities, and penned the landmark *Powley* decision, which held that the Metis, as an aboriginal community, are entitled to hunt for food within the hunting territory of their community.

And finally, Justice Sharpe has endeavoured to promote judicial independence and the rule of law abroad: he was a member of the Advisory Panel to assist the Constitution of Kenya Review Commission regarding the judiciary (in 2002) and a member of the International Bar Association Rapid Response Missions to investigate threats to judicial independence in Russia (in 2005) and Pakistan (in 2007). I think we will be hearing more about these fascinating endeavours shortly.

Please join me in welcoming our esteemed guests, Mr. McMurtry and Justice Sharpe.

Hon. R. Roy McMurtry, O.Ont., QC

Welcome to Gowlings. I am, of course, honoured and flattered that the Ministry decided to initiate the McMurtry Symposium.

Last spring as many of you know, the subject of the Symposium was the Youth Criminal Justice System which produced an interesting dialogue.

Assistant Deputy Attorney General Wilson and I met several weeks ago to discuss the topic for today. I am certainly pleased that the role of the Attorney General was chosen as my years as Attorney General were probably the most memorable in my working life, although I enjoyed very much my relatively short diplomatic career, my five years as Chief Justice of the Superior Court of Justice and my 11 plus years as the Chief Justice of Ontario.

I must concede at the outset my strong personal bias that the most satisfying aspects of my own legal career have been related to public service.

I have frequently stated, over the years that any new lawyer's career that does not include a significant component of public service could ultimately lead to a real degree of dissatisfaction. Everyone here is, of course, engaged in important public service and should be proud of it.

I was, of course, called to the Bar in a much simpler age. The ranks of our profession were much smaller and there was undoubtedly less of the often ferocious competition that I have heard about from time to time in recent years. The largest law firm in Canada the year of my call was about 25 lawyers. The concept of billable hours was largely unknown and it was, I repeat, a much simpler age. However, I do recall that the concept of the profession as a helping profession was perhaps more deeply entrenched than today with the result that the level of job satisfaction may have been somewhat greater.

I recently encountered a book by former Dean Anthony Kronnon of the Yale Law School titled, *The Lost Lawyer: Failing Ideals of the Legal Profession*. It has caused a great deal of controversy in the United States as it contrasts the purported idealism, public spirit and wisdom of the author's early years with the scene he observed as head of one of the nation's finest law schools and I quote:

> "This book is about a crisis in the American legal profession. The message is that the profession now stands in danger of losing its soul. The crisis is in essence a crisis of morale. It is the product of growing doubts about the capacity of a lawyer's life to offer fulfillment to the person who takes it up. Disguised by the material well-being of lawyers, is a spiritual crisis that stands at the heart of their professional pride."

The author regrets the fact that the best graduates usually gravitate to very large and "impersonal law firms" where in his words "they are put in a corner and time charging is the rule". He regrets the "growing ascendancy of the economic view of law and a decline of its self image as a helping profession".

Many similar concerns have been expressed in Canada. I refer to these comments related to the private legal sector because I believe that government lawyers occasionally do not appreciate the value of their individual service to the public "well-being".

In any event, I practiced law as both a civil and criminal litigator for 17 years before I entered the uncertain world of politics. They were very happy years even if a little stressful economically as I celebrated my first decade in practice with the arrival of our sixth child.

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A great deal of my personal satisfaction was based on the fact that as well as enjoying my family, I was able to commit a significant portion of my time to pro bono legal and to community service generally. The fee for service legal aid plan did not arrive until nine years after I was called to the Bar and pro bono criminal defence work was quite common in the profession. In Toronto, the Pro Bono Criminal Legal Aid was administered by one lady in the sheriff's office. While still a law student, I was able to persuade her that my representation of someone in custody often charged with a serious offence would not be too much of a disaster.

Moving forward, I was persuaded to be a P.C. candidate in the 1975 election, was elected and appointed Attorney General by Premier Davis two weeks later, having, of course never sat in the provincial Legislature, this began a wonderfully interesting decade particularly as I was supported by so many talented law officers of the Crown.

The role of the Attorney General and the very nature of the office have taken somewhat different forms even in those countries which share to one degree or other the English legal tradition.

In England the office can be traced back to the 13th century. In Ontario the office has existed since the 19th century. Ontario is different from many jurisdictions in that for over 130 years, the Attorney General has been a holder of political office and a full member of the Cabinet.

Being the head of a department of overnment and having supervision of the machinery of justice he must, as Minister of the Crown, be politically accountable to the Legislative Assembly. This is one of the office's central characteristics.

It is important in this context to explore the meaning of the word "political". The historic independence of the Office of the Attorney General is traditionally couched in terms of independence from partisan political considerations, particularly in relation to the initiation and conduct of criminal proceedings. The Honourable James McRuer, one of our Canadian most illustrious jurists, in his Royal Commission Inquiry into Civil Rights said that the Attorney General:

> "...must of necessity occupy a different position politically from all other Ministers of the Crown. As a Queen's Attorney, he occupies an office with judicial attributes and in that office he is responsible to the Queen and not responsible to the government. He must decide when to prosecute and when to discontinue a prosecution. In making such decision he is not under the jurisdiction of the Cabinet nor should such decisions be influenced by political considerations. They are decisions made as the Queen's Attorney, not as a member of the government of the day."

I think we must realize that the word "political" has a number of meanings depending on the circumstances in which it is used. With respect to the Office of the Attorney General, independence from politics means independence from any partisan political consideration. It means independence from any consideration of the fortunes of one's own political party. I was a member of the Progressive Conservative Party of Ontario but the political fortunes of my party were simply not a factor in any of the decisions which I made particularly with respect to the initiation and conduct of criminal matters or any of the other quasi-judicial functions of my office and indeed the many justice reforms that we initiated despite the grumblings of some of my less supportive Cabinet and caucus colleagues.

Edward Bates, Abraham Lincoln's Attorney General, and a man who had been a politician, a Congressman, and himself a candidate for the Presidency of the United States – expressed what became my own view on the Office of the Attorney General when he stated as follows:

> "The office I hold is not properly political, but strictly legal; and it is my duty, above all other ministers of state, to uphold the Law and to resist all encroachments from whatever quarter, or mere will and power."

The principle of political independence does not mean that the Attorney General must discharge his many responsibilities from an ivory tower. It is the duty of the Attorney General to consider wide issues including questions of the general public interest. The decision of any Attorney General may be political in the sense that it may involve a judgment as to whether or not a particular prosecution or other legal initiative would serve the general public interest in the broadest sense.

In Ontario, the Attorney General is given a curiously wide range of powers, certainly wider than in most other provinces of Canada and perhaps wider than in most of the Commonwealth including Britain. The office is specifically recognized in the *British North America Act*, our basic constitutional document. A number of the duties of the office have been set out specifically by Ontario statute which recognizes and catalogues without in any way restricting, the inherent qualities of the office. For example, the *Ministry of the Attorney General Act* provides that the Attorney General:

> a) is the Law Officer of the Executive Council;
>
> b) shall see that the administration of public affairs is in accordance with the law;
>
> c) shall superintend all matters connected with the administration of justice in Ontario;
>
> d) shall perform the duties and have the powers that belong to the Attorney General and Solicitor General of England by law and usage, so far as those powers and duties are applicable to Ontario, and also shall perform the duties and powers that, until the *Constitution Act, 1867* came into effect, belonged to the offices of the Attorney General and Solicitor General in the provinces of Canada and Upper Canada and which, under the provisions of that Act, are within the scope of the powers of the Legislature;

(e) shall advise the Government upon all matters of law conneeted with legislative enactments and upon all matters of law referred to him or her by the Government;

(f) shall advise the Government upon all matters of a legislative nature and superintend all Government measures of a legislative nature;

(g) shall advise the heads of ministries and agencies of Government upon all matters of law connected with such ministries and agencies;

(h) shall conduct and regulate all litigation for and against the Crown or any ministry or agency of government in respect of any subject within the authority or jurisdiction of the Legislature;

(i) shall superintend all matters connected with judicial offices;

(j) shall perform such other functions as are assigned to him or her by the Legislature or by the Lieutenant Governor in Council.

To some extent the duties of the office of Attorney General make it a lonely job. Although an Attorney General seeks and usually receives excellent advice from the very dedicated professional Crown law officers, the actual decisions in important matters must be made by the Attorney General personally beeause the accountability for those decisions rests with the Attorney General.

In some ways, however, an Attorney General is more fortunate than the other ministers because he is a servant of the law and there is simply no interest or principle which can be weighed against that paramount duty of fidelity to the law.

By the nature of his office, an Attorney General is relieved of the burden of decision made by other politicians, which constantly involve the careful weighing and balancing of different forces in the calculus of social benefit.

The independence and integrity of the permanent legal staff is central to public confidence in the administration of justiee. The slightest basis for any public perception of a politically partisan climate within an Attorney General's ministry would virtually cripple that office. As Theodore Roosevelt wrote to his Attorney General in 1904:

> "Of all the officers of the Government, those of the Department of Justice should be kept most free from any suspicion of improper action or partisan or factional grounds."

I think that any holder of the office of the Attorney General with any sense of his traditional responsibilities would make every effort to ensure that appropriate consultations took plaee and appropriate advice was sought in all cases where the circumstances required it. For one thing the quality of the Attorney General's deeisions is obviously going to be better if that decision was illuminated by the analysis of seasoned and experienced legal minds. The process of consultation and advice introduces the safeguard of ensuring that all relevant facts have been looked into and all relevant legal principles have been addressed and properly applied.

It also seems to me that there do arise occasions when the members of the Legislative Assembly and the members of the public are entitled to something more than a bald statement that the matter has been looked into. I think there are oeeasions when the public are entitled to know the legal and factual basis upon which decisions have been made. To subject the basis of a decision to public scrutiny is in no way to diminish the function of the minister making that decision and taking responsibility for it. I see no merit in the proposition that an Attorney General should so shroud his decisions in mystery that the public is invariably denied the satisfaction of seeing that decisions are well and truly grounded in fact and in law. In one sense this is simply another application of the fundamental principles so aptly stated by Edmund Burke when he said "where mystery begins, justice ends."

This is, of course, not to say that the ministerial deeision making must be conducted in the full glare of publicity or the doctrine of Crown privilege with respect to advice given to the ministers of the Crown has outlived its usefulness. It is simply to say that public confidence is the bedrock of the Attorney General's Office. Virtually all other considerations must yield to this paramount principle. I think that in some cases, a wider degree of openness about the manner in which the Attorneys General exercise their functions would strengthen public confidence in the integrity and impartiality of that office. It all comes down in the end to the principle enunciated by Professor John Edwards in his very important book, *Law Officers of the Crown*:

> "...in suitable cases sufficient reasons would be given to convince the House of Commons that the law officer had considered all the relevant factors and has reached his decision with that impartiality of judgment which is the ultimate strength and protection of the constitutional independence of the law officers of the Crown."

A further role of the Attorney General and his Ministry is the discharge of one of his duties with respect to government legislation which has been described as follows by Justice McRuer in his groundbreaking report.

> "The duty of the Attorney General to supervise legislation imposes on him, a responsibility to the public that transcends his responsibility to his colleagues in the Cabinet. It requires him to exercise constant vigilance to sustain and defend the Rule of Law against departmental attempts to grasp unhampered arbitrary powers..."

In this connection as you know, one way in which the Attorney General maintains a degree of independence from the government and achieves a certain degree of consistency throughout the entire legal system of the province is the system by which all government departmental lawyers are in fact members of the Ministry of the Attorney General. In whatever ministry in which they work, they are nonetheless, Crown law officers employed by the common legal services branch of the ministry on behalf of the Attorney General. This measure encourages independence of legal opinion within the various government departments and results in that essential consultation on points of law throughout government, which is necessary to achieve a uniform approach and standard of excellence.

In Ontario, another of the Attorney General's very important responsibilities is, of course, the overall administration of the courts.

This has become increasingly challenging given the challenges presented by the trial delays both criminally and civilly, although court administrators alone cannot solve these issues.

Some years ago in recognition of the serious issues raised by the fact that the Attorney General, as chief litigant before the courts, was also responsible for their administration, I published a white paper on courts administration, which proposed an independent administrative structure, responsible to the senior judiciary. While the legislation was already drafted, I decided that such a structure would undermine the Ministry's accountability to the Legislature.

The appointment of judges is also obviously a critical area of the Attorney General's responsibility and can represent much of the office holder's legacy. While the advisory committees now have a major role, I believe that an Attorney General should be personally satisfied as to the quality of the appointment.

The other side of this coin is the responsibility of the Attorney General to protect the principle of judicial independence while at the same time maintaining a process that will fairly deal with any significant misbehavior of a judge.

Before concluding, I wish to refer to the role of Attorney General in relation to law reform, which was one of my highest priorities during my term of office.

The law reform function of the Attorney General for Ontario is one of the most interesting and challenging duties of that office.

But, law reform is a time-consuming and absorbing task. The principles of reform can therefore only become a concrete reality when they have undergone a lengthy process of detailed and searching examination in the Legislature. In this process of painstaking attention to detail, one can never lose sight of the central goals of law reform in the classic sense that was expressed so many years ago by Lord Broughman in his famous speech:

> "It was the boast of Augustus...that he found Rome of brick, and left it of marble, praise not unworthy a great prince, and to which the present reign also has its claims. But how much nobler will be the Sovereign's boast, when he shall have it to say, that he found law dear, and left it cheap; found it a sealed book – left it a living letter; found it the patrimony of the rich – left it the inheritance of the poor; found it the two-edged sword of craft and oppression – left if the staff of honesty and the shield of innocence."

I would like to conclude my commentary by commenting again on the important and indeed vital role of the law officers of the Crown. The government lawyer, as any government official, is in fact the government in exercise of his or her powers. She or he has a greater independence, more discretion in the exercise of their skills as a lawyer as well as a broader responsibility than the private lawyer.

You have independence because you are neither aided nor hampered by the wishes of a client and their duty is only to fulfill the obligations of the office. Government lawyers are free to use their best judgment as a representative of the people. They are not simply a government employee but are independent professionals.

A crucial aspect of your independence is of course your individual discretion which is made necessary by the complexities of the task. The private lawyer is usually concerned only with the particular situation as it affects his client. The government lawyer must be concerned not only with the specific situation, but also with all similar situations. The primary concern is the implementation of sound policy for the future, whereas, the private lawyer understandably attempts to get the best possible result in the individual case.

The broader responsibility of the government lawyer is a necessary aspect of a government's enormous power, and in the exercise of that power, the lawyer also has a duty of restraint. The continued expansion of governmental activities has been accompanied by an increased emphasis on the civil rights of the citizen in her relations with government and its representatives as dramatically illustrated by our entrenched *Charter of Rights*. The government lawyer thus has a duty to act only in accordance with the law and to ensure that each person with whom they deal is treated in accordance with due process.

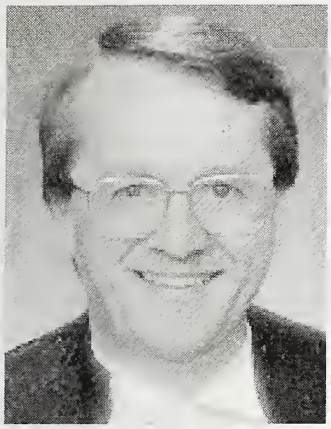
The government lawyer's responsibility also requires their best judgment to determine to what extent the resources of the government should be brought to bear on a particular problem. The issue is essentially one of fairness and a responsible exercise of power.

A government lawyer must use sound judgment in weighing and balancing such factors as the effect of the conduct involved on the welfare of society, the status of the parties involved, and the duty of the government to act. The creation of a business monopoly in violation of the law obviously calls for action against the violators to the limit of the law. The problem of the indigent widow seeking to obtain welfare payments is a wholly different one and may require assistance to aid the claimant against the government when the claim is denied on dubious grounds.

The government lawyer generally appears in court in two different capacities, as prosecutor in criminal cases and as advocate in civil cases. The two roles require the same skills, and while each has its special challenges, they can involve common problems. For example, there may be a psychological dilemma for the government lawyer who must fight hard but also be fair. The common law adversary system was developed for the resolution of disputes between individuals, not between individuals and the government. The advantages of the government in resources, prestige and power are simply too great for any trial to be conducted without the government lawyer accepting special responsibilities. Whether the litigation is criminal or civil, its impact on the individual is in no way comparable with the impact on the government. For the individual, the result of the litigation could well mean bankruptcy, the ruin of a career, the destruction of a career or prison.

As the representative of the government and with a special duty to serve public interest, the primary responsibility of government counsel should therefore not be in simply winning of the case but also in attempting to assure that justice is done.

Hon. Justice Robert J. Sharpe



CRISIS IN PAKISTAN: JUDICIAL INDEPENDENCE AND THE LAWYER'S MOVEMENT

March 9, 2007

- Musharraf confronts CJ with allegations of misconduct
- CJ refuses to resign
- CJ held incommunicado at Army House
- Musharraf issues Order restraining CJ from carrying out his functions
- Acting CJ appointed
- Reference to Supreme Judicial Council
- Ex parte hearing of SJC convened
- Two members flown in on special planes
- SJC suspends CJ
- CJ held incommunicado under house arrest
- Manhandled by police
- Musharraf puts CJ on "compulsory leave"

Impact of March 9 – 13, 2007

- Outcry of protest from legal profession
- Courts boycotted
- Demonstrations
- Police harassment and violence
- Preventative arrest and detention
- Media crackdown
- CJ becomes a hero
- Musharraf regime shaken

Chief Justice Chaudhry

- 1990 High Court of Balochistan
- 1999 Chief Justice of the High Court of Balochistan
- 2000 Supreme Court of Pakistan
- 2005 Chief Justice of Pakistan
- 59 years old
- Frequent use of suo moto powers
- "missing persons" cases
- Environmental cases
- Pakistan Steel Mill privatization
- Cases pending or expected
  - Postponement of 2007 election?
  - Musharraf as President and Army chief?
  - Privatization cases

Supreme Court Proceedings

- CJ challenges legality of SJC proceedings
  - Jurisdiction
  - Bias
  - Male fides of President
  - in camera
- March 9 and 15 suspension orders illegal
- Appointment of Acting CJ illegal
- July 20 SC reinstates CJ and declares suspension illegal
- Musharraf's bid for second term challenged
- SJC dismisses petition on procedural grounds
- No decision on legality of Musharraf's eligibility
- Musharraf re-elected but judicial stay on official notification of vote
- SC hears challenge to eligibility and reserves judgment

Declaration of Emergency: November 3, 2007

- Musharraf declares emergency days before SC expected to rule
- SC rules against emergency same day
- CJ dismissed
- Judges required to take new oath
- 13 of 17 SC judges and 47 HCJ judges refuse new oath
- Lawyers, judges and thousands of civil society imprisoned, media censorship
- Constitution "amended"
- New judges appointed

Newly constituted Supreme Court rules

- Musharaff eligible
- Emergency powers valid
- Amended constitution valid
- New oaths for judges valid
- Refuses to restore dismissed judges
- Attacks Chaudhry CJ
- Repudiates earlier judgment reinstating CJ

Emergency Lifted and Elections Held

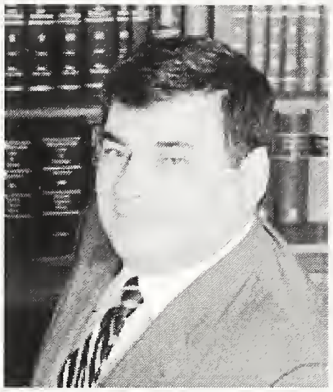
- Emergency lifted December 15 but detentions continue
- Benazir Bhutto assassinated
- Opposition PPP and PML-P win February 18 election and form coalition government
- CJ released from house arrest
- New government committed to restore deposed judges

Post-Election

- PPP stalls on reinstating judges
- PML-P leaves coalition
- Threat to impeachment Musharraf
- Musharraf resigns August 2008
- Zardari (and Bush) remain wary of Chaudhry CJ
- PPP adopts "minus one" strategy

THANK YOU

Murray Segal



Chief,

Thank you for this afternoon. I am delighted to be here and bring greetings from the Honourable Chris Bentley, Attorney General.

I would also like to thank Malliha Wilson, Assistant Deputy Attorney General, Legal Services, and her team for organizing and facilitating this event.

These symposia reflect the Ministry of the Attorney General's desire to honour one of our province's greatest Attorneys General, Chief Justices and public figures.

The province is very grateful for your recently released report on *The Roots of Youth Violence* co-authored with the Honourable Alvin Curling, a far reaching discussion regarding how to enhance the social foundation of Ontario and which provides a road map for the government to examine and act as appropriate in relation to the challenging issues canvassed in the report.

Although I was delayed in joining the symposium today, I was delighted to see you Chief in your element, with a bounce in your step and a smile on your face, fielding the many questions about the important role of the Attorney General as Chief Law Officer and also as Minister of Justice. For a moment I could flash back and picture you as the skilled politician relishing the questions from the media scrum.

It is inspirational, Chief, to this body of government lawyers to hear from you in particular validating the important work performed by them on behalf of the public interest.

Justice Sharpe, it has been our great privilege to hear your remarks regarding your "summer holiday" in Pakistan. Your presentation was informative and inspirational regarding the struggle by the former Chief Justice of Pakistan against military rule in that country. I sense another book in the offing. I was particularly taken with the reference to the courageous Deputy Attorney General you met who played a pivotal piece in the struggle to preserve the Rule of Law in Pakistan. Yes, and thank you for reminding me that the Deputy was a "former" Deputy who resigned in protest over the abridgement of human rights. Your Honour, thank you for agreeing to speak.

Your Honour, we want to thank you for the important role as you and other Canadian judges play in supporting the Rule of Law in foreign countries.

Chief, we aim to celebrate you yet you show us your great generosity in hosting these wonderful events. Thank you Chief and your law firm, Gowlings, for hosting us today.

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Roy R. McMurtry Symposium
November 24, 2008, Toronto


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